

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Beech Grove Post Office
Beech Grove, Kentucky

Docket No. A2012-40

ORDER AFFIRMING DETERMINATION

(Issued February 15, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012”.¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On October 27, 2011, Joseph L. V. Dant (Petitioner) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Beech Grove, Kentucky post office (Beech Grove post office).² The Final Determination to close the Beech Grove post office is affirmed.³

II. PROCEDURAL HISTORY

On November 3, 2011, the Commission established Docket No. A2012-40 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁴

On November 14, 2011, the Postal Service filed the Administrative Record with the Commission.⁵ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁶

On January 9, 2012, the Public Representative filed reply comments.⁷

² Petition for Review received from Joseph L. V. Dant regarding the Beech Grove, Kentucky Post Office 42322, October 27, 2011 (Petition).

³ The Commission is divided equally, 2-2, on the outcome of the appeal. In the absence of a majority, the Final Determination stands.

⁴ Order No. 946, Notice and Order Accepting Appeal and Establishing Procedural Schedule, November 3, 2011. Errata notices were filed on November 8, 2011 and November 14, 2011.

⁵ United States Postal Service Notice of Filing, November 14, 2011; United States Postal Service Notice of Filing Addendum, December 14, 2011 (see included filings with both notices for the complete Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Beech Grove, Kentucky Post Office and Continue to Provide Service by Rural Route Service (Final Determination).

⁶ United States Postal Service Comments Regarding Appeal, December 21, 2011 (Postal Service Comments).

⁷ Reply Comments of the Public Representative, January 9, 2012 (PR Reply Comments).

III. BACKGROUND

The Beech Grove post office provides retail postal services and service to 99 post office box customers. Final Determination at 2. No delivery customers are served through this office. The Beech Grove post office, an EAS-11 level facility, provides retail service from 8:00 a.m. to 12:00 p.m. and 12:30 p.m. to 4:30 p.m., Monday through Friday, and 10:00 a.m. to 12:00 p.m. on Saturday. *Id.* at 2. Lobby access hours are 24 hours a day, Monday through Saturday. *Id.*

The postmaster position became vacant on January 1, 2010, when the Beech Grove postmaster retired. *Id.* A non-career postmaster relief officer-in-charge (OIC) was installed to operate the office. *Id.* at 2, 5. Retail transactions average 22 transactions daily (24 minutes of retail workload). *Id.* at 2. Office receipts for the last 3 years were \$29,935 in FY 2008; \$29,637 in FY 2009; and \$26,799 in FY 2010. *Id.* There are two permit or postage meter customers. *Id.* By closing this office, the Postal Service anticipates savings of \$44,275 annually. *Id.* at 5.

After the closure, retail services will be provided by the Calhoun post office located approximately 10 miles away.⁸ Delivery service will be provided by rural carrier route service through the Calhoun post office. *Id.* The Calhoun post office is an EAS-18 level office, with retail hours of 8:00 a.m. to 4:00 p.m., Monday through Friday, and 8:30 a.m. to 11:30 a.m. on Saturday. *Id.* Three hundred ten (310) post office boxes are available. *Id.* Retail service is also available at the Sebree post office located approximately 8 miles away⁹. The Sebree post office is an EAS-16 level office, with retail hours of 8:30 a.m. to 4:00 p.m., Monday through Friday, and 9:00 a.m. to 10:30 a.m. on Saturday. *Id.* Two hundred seventy-eight (278) post office boxes are available. *Id.* The Postal Service will continue to use the Beech Grove name and ZIP Code. *Id.* at 5, Concern No. 4.

⁸ *Id.* at 2. MapQuest estimates the driving distance between the Beech Grove and Calhoun post offices to be approximately 10.37 miles (14 minutes driving time).

⁹ *Id.* at 2. MapQuest estimates the driving distance between the Beech Grove and Sebree post offices to be approximately 7.96 miles (10 minutes driving time).

IV. PARTICIPANT PLEADINGS

Petitioner. Petitioner opposes the closure of the Beech Grove post office. Petitioner states the post office is the focal point for the community. Petitioner also states the post office provides a valuable service and the savings from closing this post office would be miniscule. Petition at 1.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Beech Grove post office. Postal Service Comments at 2. The Postal Service believes the appeal raises two main issues: (1) the impact on the Beech Grove community; and (2) the economic savings expected to result from discontinuing the Beech Grove post office. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Beech Grove post office should be affirmed. *Id.* at 2.

The Postal Service explains that its decision to close the Beech Grove post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- projected population decline in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 4. The Postal Service contends that it will continue to provide regular and effective postal services to the Beech Grove community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioner regarding the effect on

postal services, effect on the Beech Grove community, economic savings, and effect on postal employees. *Id.* at 5-10.

The Postal Service states that services provided at the post office will be available from the carrier and, carrier service is often beneficial to senior citizens and those who face special challenges because they do not have to travel to the post office for service. *Id.* at 5. Customers who wish to continue using a post office box may opt for service at the nearby Calhoun or Sebree post office. *Id.* at 6. Regarding the security concerns raised by customers, the Postal Service notes no reports of mail theft or vandalism had been reported in the area. In addition, the Postal Service states customers can put a lock on a mailbox as long as the slot is large enough to accommodate their normal mail volume. *Id.* at 6.

The Postal Service states further that it is addressing Petitioner's concern about community identity by retaining the Beech Grove name and ZIP code in addresses. *Id.* at 8. The Postal Service also states that while the savings might be minimal, it must explore all opportunities to operate efficiently and provide effective and regular service and the savings can make a difference when added together with other measures. *Id.* at 9.

Public Representative. The Public Representative concludes the Postal Service complied with procedural requirements. PR Comments at 5. The Public Representative notes the Final Determination includes a reference to cluster box units (CBUs) while a letter to Kentucky State Representative Jim Gooch, Jr., indicates the Postal Service is investigating the possibility of providing a Village Post Office (VPO) provided by a local retailer. Final Determination at 4; Administrative Record, Item 38, at 29-30. The Public Representative does note, however, this error is resolved in the addendum which clarifies that two retailers are being considered as potential VPO sites, not CBU sites. PR Comments at 6; Addendum to the Administrative Record at 1. The Public Representative concludes that establishing a VPO would provide the community with a more palatable outcome than outright closure of the post office. PR Comments at 7.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.*, § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On May 17, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Beech Grove post office. Final Determination at 2. A total of 99 questionnaires were distributed to delivery customers. Other questionnaires were made available at the

retail counter. A total of 32 questionnaires were returned. On June 8, 2011, the Postal Service held a community meeting at Beech Grove Christian Church to address customer concerns. Ten (10) customers attended.

The Postal Service posted the proposal to close the Beech Grove post office with an invitation for comments at the Beech Grove, Calhoun, and Sebree post offices from June 24, 2011 through August 25, 2011. *Id.* at 2. The Final Determination was posted at the same three post offices from October 7, 2011 through November 8, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Beech Grove, Kentucky is an unincorporated community located in McLean County, Kentucky. Administrative Record, Item No. 16. The community is administered politically by McLean County Fiscal Court. Police protection is provided by McLean County Sheriff. Fire protection is provided by Beech Grove Fire Department. The community is comprised of farmers, retirees self-employed persons and those who commute to work in nearby communities. Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Beech Grove community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close

the Beech Grove post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 5.

Petitioner raises the issue of the effect of the closing on the Beech Grove Community. Petition at 1. The Postal Service contends that it considered this issue and explains that the community identity will be preserved by continuing the use of the Beech Grove name and ZIP Code. Postal Service Comments at 8.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Beech Grove postmaster retired on January 1, 2010, and that a non-career OIC postmaster relief has operated the Beech Grove post office since then. Final Determination at 2, 5. It asserts that after the Final Determination is implemented, the temporary OIC may be separated and that no other Postal Service employee will be adversely affected. *Id.* at 9.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Beech Grove post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Beech Grove customers. Postal Service Comments at 5. It asserts that customers of the closed Beech Grove post office may obtain retail services at the Calhoun post office located 10 miles away. Final Determination at 2. Delivery service will be provided by rural carrier route service through the Calhoun post office. *Id.* The Beech Grove post office box customers may obtain Post Office Box Service at the Calhoun post office, which has 310 boxes available. *Id.* Customers may also obtain retail services at the Sebree post office located 8 miles away. The Sebree post office has 278 post office boxes available for rent. *Id.*

For customers choosing not to travel to the Calhoun post office, the Postal Service explains that retail services will be available from the carrier. Postal Service

Comments at 5. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.* For customers concerned about the security of the mail in rural mail boxes, the Postal Service notes these security concerns can be addressed by placing a lock on the mailbox as long as the slot is large enough to accommodate normal mail volume. *Id.* at 6.

The Postal Service is also investigating the possibility of providing service through a Village Post Office (VPO) located in a local retailer. This VPO would provide post office boxes and many retail services. Administrative Record, Item 38, page 50.

The Postal Service has presented several options which would provide effective and regular service for the customers of Beech Grove post office. It would be helpful to the community if the decision on the VPO could be made promptly. However, based on a review of the record, the Commission concludes that the Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$44,275. Final Determination at 5. It derives this figure by summing the following costs: postmaster salary and benefits (\$ 44,277) and annual lease costs (\$2,700), minus the cost of replacement service (\$2,704). *Id.*

The Postal Service estimates that extending rural route carrier service would cost the Postal Service substantially less than maintaining the Beech Grove post office and would still provide regular and effective service. Postal Service Comments at 8-9. While Petitioner claims the savings are miniscule, the Postal Service notes that these savings can make a difference when added together with other savings. *Id.* at 9.

The Beech Grove post office postmaster retired on January 1, 2010. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. *Id.* at 7. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal,

October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Beech Grove post office has been staffed by an OIC for almost 2 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Beech Grove post office is affirmed.¹⁰

It is ordered:

The Postal Service's determination to close the Beech Grove, Kentucky post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹⁰ See footnote 3, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Beech Grove post office has been operated by a non-career postmaster relief (PMR) officer-in-charge (OIC) since the former postmaster retired on January 1, 2010. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data was in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the record and present a more considered evaluation of potential savings.

As my colleagues note, the Postal Service provided an addendum to the Administrative Record that supplies post-record information. The omission of this information in the Administrative Record provides indication that the Record is flawed. As the Commission has no way of correcting the Administrative Record in our section 404 review, it must be done on remand.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Beech Grove, Kentucky and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility since January 2010, not an EAS-11 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Beech Grove post office and should be remanded.

Nanci E. Langley